

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR § 1.114**  
**TRANSMITTAL**

HIS  
Reg. No.  
10/26/03

Docket No.: 19603/3296 (CRF D-2098B)  
 Examiner: G. Bugaisky  
 Art Unit: 1653  
 Cnfrm. No.: 3745

Commissioner for Patents  
 Washington, D.C. 20231  
 BOX: RCE

This is a Request for Continued Examination (RCE) under 37 CFR § 1.114 of prior application number 09/596,784, filed on June 19, 2000, of Adam J. Bogdanove, Jihyun Francis Kim, Zhong-Min Wei, and Steven V. Beer entitled **HYPERSENSITIVE RESPONSE ELICITOR FROM ERWINIA AMYLOVORA, ITS USE, AND ENCODING GENE**.

**This Request is accompanied by submission(s) pursuant to 37 CFR § 1.114(b) and other materials as follows:**

1.  Enter the amendment previously filed on April 4, 2003 under 37 CFR 1.116 in the prior nonprovisional application.
2.  An amendment (\_\_\_\_ pages) is enclosed.
3.  A new power of attorney is enclosed herewith.
4.  Information Disclosure Statement (IDS) with PTO-1449 form (in duplicate) and copy of the reference(s) are enclosed herewith.
5. The filing fee is calculated on the basis of the claims existing in the prior application as amended above:

a) SMALL ENTITY \$375  
 b) LARGE ENTITY \$750

	(Col. 1)		(Col. 2)		(Col. 3)		
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADD'L FEE	
BASIC FEE	XXXXXX	XXXXXX	XXXXXXXX	XXXXXX	XXXXXX	\$375	
TOTAL	14	MINUS	20	0	a) \$ 9 = b) \$18 =	\$ 0	
INDEP	1	MINUS	3	0	a) \$42= b) \$84	\$0	
[ ] FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM					See fee Schedule	\$0	
[ ] Extension of Time Fee (____ Months)							
TOTAL							\$375

04/25/2003 00000080 1 2801 \$375.00 04/25/2003

CK

- 2 -

6.  A check in the amount of \$375.00 is enclosed to cover the above filing fee.
7.  Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.  
A duplicate copy of this sheet is enclosed.
8.  The Commissioner is hereby authorized to charge fees which may be required, or credit overpayment to Deposit Account No. 14-1138. A duplicate copy of this sheet is enclosed.
9. Small entity status:  
 Applicant claims small entity status. (See 37 CFR 1.27.)  
 A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.  
 is no longer claimed.
10.  A self-addressed, prepaid postcard for acknowledging receipt.
11. Other:

Address all future communications to (may only be completed by Applicant, or attorney or agent of record):

Michael L. Goldman  
NIXON PEABODY LLP  
Clinton Square  
P.O. Box 31051  
Rochester, New York 14603-1051

Respectfully submitted,

Date: April 22, 2003

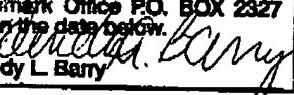
  
Edwin V. Merkel  
Registration No. 40,087

NIXON PEABODY LLP  
Clinton Square, P.O. Box 31051  
Rochester, New York 14603  
Telephone: (585) 263-1128  
Facsimile: (585) 263-1600

**Certificate of Mailing - 37 CFR 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
U.S. Patent and Trademark Office P.O. BOX 2327  
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Date 4/22/03

  
Wendy L. Barry

**PATENT**  
**Docket No.: 19603/3296 (CRF D-2098B)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants	:	Bogdanove et al.	)	Examiner:
Serial No.	:	09/596,784	)	G. Bugaisky
Cnfrm. No.	:	3745	)	Art Unit:
Filed	:	June 19, 2000	)	1653
For	:	HYPERSENSITIVE RESPONSE ELICITOR FROM <i>ERWINIA AMYLOVORA</i> , ITS USE, AND ENCODING GENE	)	

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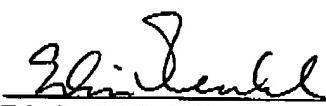
**CERTIFICATE OF FACSIMILE TRANSMISSION**

U.S. Patent and Trademark Office  
P.O. Box 2327  
Arlington, VA 22202  
Box: AF

Dear Sir:

I hereby certify that the accompanying Transmittal Letter (2 pages), Request for Five-Month Extension of Time (1 page), and Amendment Under 37 C.F.R. § 1.116 (6 pages plus 2 page Appendix) are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Date: April 4, 2003

  
Edwin V. Merkel  
Registration No. 40,087

Nixon Peabody LLP  
Clinton Square, P. O. Box 31051  
Rochester, New York 14603  
Telephone: (585) 263-1128  
Facsimile: (585) 263-1600

**PATENT**  
**Docket No.: 19603/3296 (CRF D-2098B)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants	:	Bogdanove et al.	)	Examiner:
Serial No.	:	09/596,784	)	G. Bugaisky
Cnfrm. No.	:	3745	)	Art Unit:
Filed	:	June 19, 2000	)	1653
For	:	HYPERSENSITIVE RESPONSE ELICITOR FROM <i>ERWINIA AMYLOVORA</i> , ITS USE, AND ENCODING GENE		

U.S. Patent and Trademark Office  
P.O. Box 2327  
Arlington, Virginia 22202  
Box: AF

Sir:

Transmitted herewith is an Amendment Under 37 C.F.R. § 1.116 (4 pages) and Appendix (1 page) in the above-identified application. Also enclosed are:

- Request for Five-Month Extension of Time.
- Applicants claim small entity status. (See 37 CFR § 1.27.)
- The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NO. PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA	a) SMALL ENTITY	b) LARGE ENTITY
					RATE	ADD'L FEE
TOTAL	14	MINUS	20	0	a) \$ 9= b) \$18	\$0
INDEP	1	MINUS	3	0	a) \$42= b) \$84	\$0
<input checked="" type="checkbox"/> Extension of Time Fee (5 Months)					See fee Schedule	\$985.00
						TOTAL
						\$985.00

R6705761

- 2 -

- [ ] A check for \$\_\_\_\_ is enclosed to cover the Three-Month Extension of Time Fee.
- [X] Please charge my Deposit Account No. 14-1138 in the amount of \$985.00  
A duplicate copy of this sheet is enclosed.
- [X] The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 14-1138.  
A duplicate copy of this sheet is enclosed.

Date: April 4, 2003

  
Edwin V. Merkel  
Registration No. 40,087

NIXON PEABODY LLP  
Clinton Square, P.O. Box 31051  
Rochester, New York 14603-1051  
Telephone: (585) 263-1128  
Facsimile: (585) 263-1600

SEP-30-2003 16:44

NIXON, PEABODY 10TH

**Nixon Peabody LLP**

Attorneys at Law

Clinton Square  
P.O. Box 31051  
Rochester, New York 14603-1051  
(585) 263-1000

Fax: (585) 263-1600

*Office**See  
30 Sep 2003*

585 263 1600 P.01

**PRIVILEGE AND CONFIDENTIALITY NOTICE**

The information in this fax is intended for the named recipients only. It contains privileged and confidential matter. If you have received this fax in error, please notify us immediately by a collect telephone call to (585) 263-1000 and return the original to the sender by mail. We will reimburse you for postage. Do not disclose the contents to anyone. Thank you.

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To:	Company	Fax #:	Telephone #:
1) Examiner Low	USPTO	(703) 746-5040	(703) 308-2923
2)			
3)			
4)			
5)			

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY &amp; CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: Edwin V. Merkel	Date: September 30, 2003	No. of Pages: 8 (including this page)	
Comments:			
Re: Serial No. 09/596,784			

Original of the transmitted document will be sent by:

First Class Mail     Overnight Mail     Hand Delivery     This transmission will be the only form of delivery of this document

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CONFIRMATION: DATE SENT \_\_\_\_\_ TIME \_\_\_\_\_ BY \_\_\_\_\_

INTEROFFICE TO:  Albany     Boston     Buffalo     Garden City     Hartford     Manchester     New York City  
 Northern Virginia     Orange County     Providence     Rochester     San Francisco     Washington

To:	Company	Fax #:	Telephone #:
1) Examiner Low	USPTO	(703) 746-5040	(703) 308-2923
2)			
3)			
4)			
5)			

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY &amp; CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: Edwin V. Merkel	Date: September 30, 2003	No. of Pages: 8 (including this page)	Client/Matter: 19603/3296
User #: 5420	Ext: 1128	Disbursement Amount: \$	

## UTILITY/DESIGN PATENT

(appln)

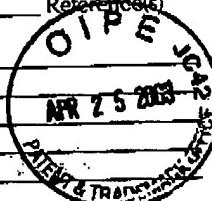
*RCE*Date: 4/22/03

Date of O.A.: \_\_\_\_\_

Received in the U.S. Patent &amp; Trademark Office on the date stamped hereon

via Express Mail # EVI38585446US - *bog danone et al.*  
Case # 1960313294 Applicant: *Elkton* Atty: *ZUM*For Elkton Response Emitter Atty: *ZUM*VERIFIED BY: Asst: WLB Quality Control: \_\_\_\_\_ Claims

- Patent Appln. in \_\_\_\_\_ pgs. incl. Spec. and \_\_\_\_\_ Drawings
- Transmittal in duplicate  \_\_\_\_\_ Pgs. \_\_\_\_\_ Drawings
- Decl. & Power of Atty.  Assoc. Power of Atty.
- Assignment in \_\_\_\_\_ pgs.  Small Entity Statement
- Information Disclosure Statement; PTO-1449 in duplicate with \_\_\_\_\_ Reference(s)
- Preliminary Amendment in \_\_\_\_\_ pgs.
- Check for \$ 375.00 Filing Fee \_\_\_\_\_
- Check for \$ \_\_\_\_\_ Fee for Filing Assignment \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

ENTERED  
Nixon Peabody LLP

MAY 01 2003

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Dkt 95